

REMARKS

Claims 44-99 remain pending. Applicants note that the Restriction Requirement lists claims 2-99 as pending. Claim 1 was cancelled and claims 44-99 were added in the preliminary amendment filed April 23, 2001. However, claims 2-43 were also cancelled in the Request for Filing Continuation Application, also filed on April 23, 2001 (see the Request, page 2). At the time of filing, cancelling claims in the Request was still permissible. Accordingly, Applicants submit that claims 44-99 are pending.

The present Office Action presents a Restriction Requirement, alleging the following species: Figs. 3-7, 8-11, 12-17, 18-29, and 30-32. Applicants elect, with traverse, the alleged species of Figs. 18-29. However, Applicants disagree that the alleged species are properly identifiable as species, as detailed below.

The restriction requirement is improper because the alleged species enumerated by the Examiner are not disclosed as species in the present application. By definition, species **must have mutually exclusive characteristics**. *See* M.P.E.P. § 806.04(f). According to M.P.E.P. § 806.04(f):

The general test as to when claims are restricted, respectively, to different species is that fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species. (emphasis added).

Note that “mutually exclusive characteristics” is a requirement of the species as described in the disclosure.

Applicants respectfully submit that the species alleged above are not mutually exclusive. Figs. 3-7 illustrate exemplary packet formats and a table of transactions for coherent transactions in the processing subsystem of Fig. 1. Figs 8-11 illustrate exemplary packet formats, a table of transactions, and ordering rules for the I/O subsystem shown in Fig. 1. Figs. 12-17 illustrated probe packets and responses for coherent transactions. Figs. 18-29 illustrate various exemplary transactions, including a

variety of packets in the coherent fabric, the noncoherent fabric, or both. Figs. 30-32 illustrate the use of the target start response packet.

The Office Action makes no attempt to explain why the alleged species are deemed to be mutually exclusive. Furthermore, Applicants submit that nothing in the disclosure indicates that the alleged species are mutually exclusive. Rather, the disclosure indicates that all of the alleged species may be used together in at least some embodiments (e.g. in a system such as that shown in Fig. 1). Accordingly, since the alleged species are not mutually exclusive, they are not properly identifiable as species. The restriction requirement is therefore improper. Furthermore, since the alleged species are not properly identifiable as species, all pending claims are either generic to or read on the elected "species".

Applicants further note that the present Office Action includes a discussion of the effect of arguing that species are not patentably distinct. Applicants note that the lack of mutual exclusivity highlighted above is NOT an argument that the species are not patentably distinct, and thus the consequences highlighted in the present Office Action do not apply.

For at least all of the above stated reasons, Applicants respectfully submit that the restriction requirement is improper and therefore must be rescinded.

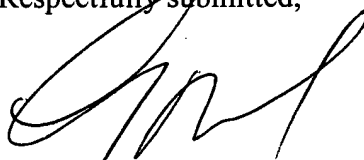
CONCLUSION

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5500-98900/LJM.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Request for Approval of Drawing Changes
- ☐ Notice of Change of Address
- ☐ Fee Authorization Form authorizing a deposit account debit in the amount of \$
for fees ().
- ☒ Other: IDS

Respectfully submitted,



Lawrence J. Merkel
Reg. No. 41,191
AGENT FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800

Date: 4/21/05